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110TH CONGRESS
2D SESSION

S. 2641

To amend titles XVIII and XIX of the Social Security Act to improve the transparency of information on skilled nursing facilities and nursing facilities and to clarify and improve the targeting of the enforcement of requirements with respect to such facilities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2008

Mr. GRASSLEY (for himself and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend titles XVIII and XIX of the Social Security Act to improve the transparency of information on skilled nursing facilities and nursing facilities and to clarify and improve the targeting of the enforcement of requirements with respect to such facilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Nursing Home Transparency and Improvement Act of 2008".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVING TRANSPARENCY OF INFORMATION ON SKILLED NURSING FACILITIES AND NURSING FACILITIES

Sec. 101. Required disclosure of ownership and affiliated parties information.
Sec. 102. Accountability requirements.
Sec. 103. Nursing home compare Medicare website.
Sec. 104. Reporting of expenditures.
Sec. 105. Standardized complaint form.
Sec. 106. Ensuring staffing accountability.

TITLE II—TARGETING ENFORCEMENT

Sec. 201. Civil money penalties.
Sec. 202. GAO study and report on the relative financial status and performance of special focus facilities.
Sec. 203. National independent monitor program.
Sec. 204. GAO studies and reports on temporary management and barriers to purchasing facilities with a record of poor care.
Sec. 205. Notification of facility closure.
Sec. 206. National demonstration projects on culture change and use of information technology in nursing homes.

TITLE III—IMPROVING STAFF TRAINING

Sec. 301. Dementia and abuse prevention training.
Sec. 302. Study and report on training required for certified nurse aides and supervisory staff.

TITLE I—IMPROVING TRANSPARENCY OF INFORMATION ON SKILLED NURSING FACILITIES AND NURSING FACILITIES

SEC. 101. REQUIRED DISCLOSURE OF OWNERSHIP AND AFFILIATED PARTIES INFORMATION.

(a) SKILLED NURSING FACILITIES.—Section 1819(d)(1) of the Social Security Act (42 U.S.C. 1395i–

3(d)(1)) is amended by adding at the end the following new subparagraphs:

"(D) AVAILABILITY OF OWNERSHIP AND AFFILIATED PARTIES INFORMATION.—

"(i) IN GENERAL.—Beginning on the date of enactment of this subparagraph, a skilled nursing facility must have the information described in clause (ii) available for submission to the Secretary, the Inspector General of the Department of Health and Human Services, the State, the State long-term care ombudsman, a resident of a facility, and the legal representative of such a resident or other responsible party in the case where the Secretary, the Inspector General, the State, the State long-term care ombudsman, the resident, or the legal representative or responsible party requests such information (and, beginning on the effective date of the regulations promulgated under subparagraph (E)(i), for reporting such information in accordance with such regulations). The facility shall certify to the Secretary and the Inspector General of the Department of Health and

Human Services, as a condition of participation and payment under the program under this title, that the information submitted upon such request is accurate and current.

"(ii) INFORMATION DESCRIBED.—The following information is described in this clause:

"(I) The identity of individuals with an ownership or control interest (as defined in section 1124(a)(3)) in the facility.

"(II) Information on the members of the governing body of the skilled nursing facility, including the names, titles, and dates of service of such members.

"(III) Information describing the organizational structure of any affiliated or related parties, including principal officers and directors of affiliated or related companies, or members in the case of a limited liability company.

To the extent that information reported by a facility to the Internal Revenue Service on Form 990, information submitted by a facility to the Securities and Exchange Commission, or information otherwise submitted to the Secretary contains the information described in subclauses (I), (II), and (III), the facility may provide such Form or such information submitted to meet the requirements of clause (i) and subparagraph (E)(i).

"(iii) DEFINITION OF AFFILIATED OR RELATED PARTIES.—In this subparagraph, the term 'affiliated or related parties' means companies or individuals that serve as operators, landlords, management companies or advisors, real estate or consulting companies, members of a limited liability company, administrative services companies, lenders and companies providing financial guarantees, captive or affiliated liability insurance companies, and such other entities as the Secretary determines appropriate.

"(E) REPORTING.—

"(i) IN GENERAL.—Not later than 2 years after the date of enactment of this subparagraph, the Secretary shall promulgate regulations requiring skilled nursing facilities to report the information described in clause (ii) of subparagraph (D) to the Secretary in a standardized format, and such other regulations as are necessary to carry out such subparagraph. Such regulations shall ensure that the facility certifies, as a condition of participation and payment under the program under this title, that the information reported is accurate and current.

"(ii) GUIDANCE.—The Secretary shall provide guidance and technical assistance to States on how to adopt the standardized format under clause (i).".

(b) NURSING FACILITIES.—Section 1919(d)(1) of the Social Security Act (42 U.S.C. 1396r(d)(1)) is amended by adding at the end the following new subparagraph:

"(D) AVAILABILITY OF OWNERSHIP AND AFFILIATED PARTIES INFORMATION.—

"(i) IN GENERAL.—Beginning on the date of enactment of this subparagraph, a

nursing facility must have the information described in clause (ii) available for submission to the Secretary, the Inspector General of the Department of Health and Human Services, the State, the State long-term care ombudsman, a resident of a facility, and the legal representative of such a resident or other responsible party in the case where the Secretary, the Inspector General, the State, the State long-term care ombudsman, the resident, or the legal representative or responsible party requests such information (and, beginning on the effective date of the regulations promulgated under subparagraph (E)(i), for reporting such information in accordance with such regulations). The facility shall certify to the Secretary and the Inspector General of the Department of Health and Human Services, as a condition of participation and payment under the program under this title, that the information submitted upon such request is accurate and current.

"(ii) INFORMATION DESCRIBED.—The following information is described in this clause:

"(I) The identity of individuals with an ownership or control interest (as defined in section 1124(a)(3)) in the facility.

"(II) Information on the members of the governing body of the nursing facility, including the names, titles, and dates of service of such members.

"(III) Information describing the organizational structure of any affiliated or related parties, including principal officers and directors of affiliated or related companies, or members in the case of a limited liability company.

To the extent that information reported by a facility to the Internal Revenue Service on Form 990, information submitted by a facility to the Securities and Exchange Commission, or information otherwise submitted to the Secretary contains the infor-

mation described in subclauses (I), (II), and (III), the facility may provide such Form or such information submitted to meet the requirements of clause (i) and subparagraph (E)(i).

"(iii) DEFINITION OF AFFILIATED OR RELATED PARTIES.—In this subparagraph, the term 'affiliated or related parties' means companies or individuals that serve as operators, landlords, management companies or advisors, real estate or consulting companies, members of a limited liability company, administrative services companies, lenders and companies providing financial guarantees, captive or affiliated liability insurance companies, and such other entities as the Secretary determines appropriate.

"(E) REPORTING.—

"(i) IN GENERAL.—Not later than 2 years after the date of enactment of this subparagraph, the Secretary shall promulgate regulations requiring nursing facilities to report the information described in clause (ii) of subparagraph (D) to the Sec-

retary in a standardized format, and such other regulations as are necessary to carry out such subparagraph. Such regulations shall ensure that the facility certifies, as a condition of participation and payment under the program under this title, that the information reported is accurate and current.

"(ii) GUIDANCE.—The Secretary shall provide guidance and technical assistance to States on how to adopt the standardized format under clause (i).".

SEC. 102. ACCOUNTABILITY REQUIREMENTS.

(a) SKILLED NURSING FACILITIES.—Section 1819(d)(1) of the Social Security Act (42 U.S.C. 1395i–3(d)(1)), as amended by section 101, is amended by adding at the end the following new subparagraph:

"(F) ACCOUNTABILITY REQUIREMENTS.—

"(i) IN GENERAL.—On or after the date that is 2 years after the date of enactment of this subparagraph, any skilled nursing facility or chain of such facilities must meet standards for being an accountable entity by complying with the criteria developed under clause (ii).

"(ii) CRITERIA.—Not later than the date that is 2 years after such date of enactment, the Secretary, in consultation with the General Counsel of the Department of Health and Human Services and the Inspector General of the Department of Health and Human Services, shall develop criteria to define accountability requirements applicable to facilities and chains of such facilities. Such criteria shall—

"(I) include standards for submission of annual independent audits for facilities that are part of a group under common ownership or control, whether publicly or privately held and which have annual revenues of $50,000,000 or more in the aggregate as a group; and

"(II) require new owners of a facility to provide proof of financial ability to operate the facility, including documentation of projected revenue and expenses for the first 12 months of operation of the facility.

"(iii) RULE OF CONSTRUCTION.—The criteria developed under clause (ii), and any requirements to submit information under such criteria, shall be in addition to any information the Secretary otherwise requires providers to submit on the ownership and operation of skilled nursing facilities (including information required to be submitted or reported under subparagraph (D) or (E)).".

(b) NURSING FACILITIES.—Section 1919(d)(1) of the Social Security Act (42 U.S.C. 1396r(d)(1)), as amended by section 101, is amended by adding at the end the following new subparagraph:

"(F) ACCOUNTABILITY REQUIREMENTS.—

"(i) IN GENERAL.—On or after the date that is 2 years after the date of enactment of this subparagraph, any nursing facility or chain of such facilities must meet standards for being an accountable entity by complying with the criteria developed under clause (ii).

"(ii) CRITERIA.—Not later than the date that is 2 years after such date of enactment, the Secretary, in consultation

with the General Counsel of the Department of Health and Human Services and the Inspector General of the Department of Health and Human Services, shall develop criteria to define accountability requirements applicable to facilities and chains of such facilities. Such criteria shall—

"(I) include standards for submission of annual independent audits for facilities that are part of a group under common ownership or control, whether publicly or privately held and which have annual revenues of $50,000,000 or more in the aggregate as a group; and

"(II) require new owners of a facility to provide proof of financial ability to operate the facility, including documentation of projected revenue and expenses for the first 12 months of operation of the facility.

"(iii) RULE OF CONSTRUCTION.—The criteria developed under clause (ii), and any requirements to submit information

under such criteria, shall be in addition to any information the Secretary otherwise requires providers to submit on the ownership and operation of nursing facilities (including information required to be submitted or reported under subparagraph (D) or (E)).".

SEC. 103. NURSING HOME COMPARE MEDICARE WEBSITE.

(a) SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection:

"(i) NURSING HOME COMPARE WEBSITE.—

"(1) INCLUSION OF ADDITIONAL INFORMATION.—

"(A) IN GENERAL.—The Secretary shall ensure that the Department of Health and Human Services includes, as part of the information provided for comparison of nursing homes on the official Internet website of the Federal Government for Medicare beneficiaries (commonly referred to as the 'Nursing Home

Compare' Medicare website) (or a successor website), the following information in a manner that is prominent, easily accessible, readily understandable to consumers of long-term care services, and searchable:

"(i) Information that is reported to the Secretary under subparagraph (E) of subsection (d)(1) and information submitted with respect to accountability requirements applicable to facilities and chains of facilities under subparagraph (F) of such subsection.

"(ii) Information on the 'Special Focus Facility program' (or a successor program) established by the Centers for Medicare & Medicaid Services, according to procedures established by the Secretary. Such procedures shall provide for the inclusion of information with respect to, and the names and locations of, those facilities that—

"(I) have been enrolled in the program;

"(II) are enrolled in the program and have failed to make significant

progress within 18 months after such enrollment; and

"(III) have closed voluntarily or whose participation under this title has been terminated by the Secretary.

"(iii) Staffing data for each facility (including resident census data and data on the hours of care provided per resident per day) based on data submitted under subsection (b)(8)(C)(ii), including information on staffing turnover and tenure, in a format that is clearly understandable to consumers of long-term care services and allows such consumers to compare differences in staffing between facilities.

"(iv) Links to State Internet websites with information regarding State survey and certification programs, links to Form 2567 State inspection reports (or a successor form) on such websites, information to guide consumers in how to interpret and understand such reports, and the facility plan of correction or other response to such report.

"(v) The standardized complaint form developed under subsection (f)(8), including explanatory material on what complaint forms are, how they are used, and how to file a complaint with the State survey and certification program and the State long-term care ombudsman program.

"(vi) A summary of information on enforcement that includes remedies proposed and imposed by the Secretary with respect to a skilled nursing facility during the preceding 3 years.

"(B) DEADLINE FOR PROVISION OF INFORMATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall ensure that the information described in subparagraph (A) is included on such website (or a successor website) not later than 1 year after the date of enactment of this subsection.

"(ii) EXCEPTIONS.—

"(I) OWNERSHIP AND AFFILIATED PARTIES AND ACCOUNTABILITY REQUIREMENTS INFORMATION.—The

Secretary shall ensure that the information described in subparagraph (A)(i) is included on such website (or a successor website) not later than the date on which the requirements under subparagraph (E) and (F), respectively, of subsection (d)(1) are implemented.

"(II) STAFFING DATA.—The Secretary shall ensure that the information described in subparagraph (A)(iii) is included on such website (or a successor website) not later than the date on which the requirement under subsection (b)(8)(C)(ii) is implemented.

"(2) REVIEW AND MODIFICATION OF WEBSITE.—

"(A) IN GENERAL.—The Secretary shall establish a process—

"(i) to review the accuracy, clarity of presentation, timeliness, and comprehensiveness of information reported on such website as of the day before the date of enactment of this subsection; and

"(ii) not later than 1 year after the date of enactment of this subsection, to modify or revamp such website in accordance with the review conducted under clause (i).

"(B) CONSULTATION.—In conducting the review under subparagraph (A)(i), the Secretary shall consult with—

"(i) State long-term care ombudsman programs;

"(ii) consumer advocacy groups;

"(iii) provider stakeholder groups; and

"(iv) any other representatives of programs or groups the Secretary determines appropriate.".

(2) TIMELINESS OF SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION.—

(A) IN GENERAL.—Section 1819(g)(5) of the Social Security Act (42 U.S.C. 1395i–3(g)(5)) is amended by adding at the end the following new subparagraph:

"(E) SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION TO THE SECRETARY.—In order to improve the timeliness of information made available to the public under

subparagraph (A) and provided on the Nursing Home Compare Medicare website under subsection (i), each State shall submit information respecting any survey or certification made respecting a skilled nursing facility (including any enforcement actions taken by the State) to the Secretary not later than the date on which the State sends such information to the facility. The Secretary shall use the information submitted under the preceding sentence to update the information provided on the Nursing Home Compare Medicare website as expeditiously as practicable.".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect 1 year after the date of enactment of this Act.

(b) NURSING FACILITIES.—

(1) IN GENERAL.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection:

"(i) NURSING HOME COMPARE WEBSITE.—

"(1) INCLUSION OF ADDITIONAL INFORMATION.—

"(A) IN GENERAL.—The Secretary shall ensure that the Department of Health and Human Services includes, as part of the information provided for comparison of nursing homes on the official Internet website of the Federal Government for Medicare beneficiaries (commonly referred to as the 'Nursing Home Compare' Medicare website) (or a successor website), the following information in a manner that is prominent, easily accessible, readily understandable to consumers of long-term care services, and searchable:

"(i) Information that is reported to the Secretary under subparagraph (E) of subsection (d)(1) and information submitted with respect to accountability requirements applicable to facilities and chains of facilities under subparagraph (F) of such subsection.

"(ii) Information on the 'Special Focus Facility program' (or a successor program) established by the Centers for Medicare & Medicaid Services, according to

procedures established by the Secretary. Such procedures shall provide for the inclusion of information with respect to, and the names and locations of, those facilities that—

"(I) have been enrolled in the program;

"(II) are enrolled in the program and have failed to make significant progress within 18 months after such enrollment; and

"(III) have closed voluntarily or whose participation under this title has been terminated by the Secretary.

"(iii) Staffing data for each facility (including resident census data and data on the hours of care provided per resident per day) based on data submitted under subsection (b)(8)(C)(ii), including information on staffing turnover and tenure, in a format that is clearly understandable to consumers of long-term care services and allows such consumers to compare differences in staffing between facilities.

"(iv) Links to State Internet websites with information regarding State survey and certification programs, links to Form 2567 State inspection reports (or a successor form) on such websites, information to guide consumers in how to interpret and understand such reports, and the facility plan of correction or other response to such report.

"(v) The standardized complaint form developed under subsection (f)(10), including explanatory material on what complaint forms are, how they are used, and how to file a complaint with the State survey and certification program and the State long-term care ombudsman program.

"(vi) A summary of information on enforcement that includes remedies proposed and imposed by the Secretary or a State with respect to a nursing facility during the preceding 3 years.

"(B) DEADLINE FOR PROVISION OF INFORMATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall en-

sure that the information described in subparagraph (A) is included on such website (or a successor website) not later than 1 year after the date of enactment of this subsection.

"(ii) EXCEPTIONS.—

"(I) OWNERSHIP AND AFFILIATED PARTIES AND ACCOUNTABILITY REQUIREMENTS INFORMATION.—The Secretary shall ensure that the information described in subparagraph (A)(i) is included on such website (or a successor website) not later than the date on which the requirements under subparagraph (E) and (F), respectively, of subsection (d)(1) are implemented.

"(II) STAFFING DATA.—The Secretary shall ensure that the information described in subparagraph (A)(iii) is included on such website (or a successor website) not later than the date on which the requirement under subsection (b)(8)(C)(ii) is implemented.

"(2) REVIEW AND MODIFICATION OF WEBSITE.—

"(A) IN GENERAL.—The Secretary shall establish a process—

"(i) to review the accuracy, clarity of presentation, timeliness, and comprehensiveness of information reported on such website as of the day before the date of enactment of this subsection; and

"(ii) not later than 1 year after the date of enactment of this subsection, to modify or revamp such website in accordance with the review conducted under clause (i).

"(B) CONSULTATION.—In conducting the review under subparagraph (A)(i), the Secretary shall consult with—

"(i) State long-term care ombudsman programs;

"(ii) consumer advocacy groups;

"(iii) provider stakeholder groups; and

"(iv) any other representatives of programs or groups the Secretary determines appropriate.".

(2) TIMELINESS OF SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION.—

(A) IN GENERAL.—Section 1919(g)(5) of the Social Security Act (42 U.S.C. 1396r(g)(5)) is amended by adding at the end the following new subparagraph:

"(E) SUBMISSION OF SURVEY AND CERTIFICATION INFORMATION TO THE SECRETARY.—In order to improve the timeliness of information made available to the public under subparagraph (A) and provided on the Nursing Home Compare Medicare website under subsection (i), each State shall submit information respecting any survey or certification made respecting a nursing facility (including any enforcement actions taken by the State) to the Secretary not later than the date on which the State sends such information to the facility. The Secretary shall use the information submitted under the preceding sentence to update the information provided on the Nursing Home Compare Medicare website as expeditiously as practicable.".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect 1 year after the date of enactment of this Act.

(c) AVAILABILITY OF REPORTS ON SURVEYS, CERTIFICATIONS, AND COMPLAINT INVESTIGATIONS.—

(1) SKILLED NURSING FACILITIES.—Section 1819(d)(1) of the Social Security Act (42 U.S.C. 1395i–3(d)(1)), as amended by section 102, is amended by adding at the end the following new subparagraph:

"(G) AVAILABILITY OF SURVEY, CERTIFICATION, AND COMPLAINT INVESTIGATION REPORTS.—A skilled nursing facility must—

"(i) have reports with respect to any surveys, certifications, and complaint investigations made respecting the facility during the 3 preceding years available for any individual to review upon request; and

"(ii) post notice of the availability of such reports in areas of the facility that are prominent and accessible to the public.".

(2) NURSING FACILITIES.—Section 1919(d)(1) of the Social Security Act (42 U.S.C. 1396r(d)(1)),

as amended by section 102, is amended by adding at the end the following new subparagraph:

"(G) AVAILABILITY OF SURVEY, CERTIFICATION, AND COMPLAINT INVESTIGATION REPORTS.—A nursing facility must—

"(i) have reports with respect to any surveys, certifications, and complaint investigations made respecting the facility during the 3 preceding years available for any individual to review upon request; and

"(ii) post notice of the availability of such reports in areas of the facility that are prominent and accessible to the public.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 1 year after the date of enactment of this Act.

(d) GUIDANCE TO STATES ON FORM 2567 STATE INSPECTION REPORTS AND COMPLAINT INVESTIGATION REPORTS.—

(1) GUIDANCE.—The Secretary shall provide guidance to States on how States can establish electronic links to Form 2567 State inspection reports (or a successor form), complaint investigation reports, and a facility's plan of correction or other re-

sponse to such Form 2567 State inspection reports (or a successor form) on the Internet website of the State that provides information on skilled nursing facilities and nursing facilities.

(2) DEFINITIONS.—In this subsection:

(A) NURSING FACILITY.—The term "nursing facility" has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(B) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(C) SKILLED NURSING FACILITY.—The term "skilled nursing facility" has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)).

SEC. 104. REPORTING OF EXPENDITURES.

Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(f) REPORTING OF EXPENDITURES.—

"(1) IN GENERAL.—For cost reports submitted for cost reporting periods beginning on or after the date that is 1 year after the date of enactment of this subsection, skilled nursing facilities shall sepa-

rately report expenditures for wages and benefits for nursing staff (by staff level, breaking out (at a minimum) registered nurses, licensed professional nurses, and certified nurse assistants).

"(2) MODIFICATION OF FORM.—The Secretary, in consultation with private sector accountants experienced with medicare and medicaid nursing facility home cost reports, shall redesign such reports to meet the requirement of paragraph (1).

"(3) CATEGORIZATION.—The Secretary, working in consultation with the Medicare Payment Advisory Commission, the Inspector General of the Department of Health and Human Services, and other expert parties the Secretary determines appropriate, shall take the expenditures listed on cost reports submitted by skilled nursing facilities and categorize such expenditures into the following categories on an annual basis:

"(A) Spending on direct care services (including nursing, therapy, and non-ancillary therapy services).

"(B) Spending on indirect care (including housekeeping, dietary, and other related services).

"(C) Capital costs (including building and land costs).

"(D) Administrative costs.

"(4) AVAILABILITY OF INFORMATION SUBMITTED.—The Secretary shall establish procedures to make information on expenditures submitted under this subsection readily available to interested parties upon request, subject to such requirements as the Secretary may specify under the procedures established under this paragraph.".

SEC. 105. STANDARDIZED COMPLAINT FORM.

(a) SKILLED NURSING FACILITIES.—

(1) DEVELOPMENT BY THE SECRETARY.—Section 1819(f) of the Social Security Act (42 U.S.C. 1395i–3(f)) is amended by adding at the end the following new paragraph:

"(8) STANDARDIZED COMPLAINT FORM.—The Secretary shall develop a standardized complaint form for use by a resident (or a person acting on the resident's behalf) in filing a complaint with a State survey and certification agency and a State long-term care ombudsman program with respect to a skilled nursing facility.".

(2) STATE REQUIREMENTS.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is

amended by adding at the end the following new paragraph:

"(6) COMPLAINT FORMS AND RESOLUTION PROCESSES.—

"(A) COMPLAINT FORMS.—The State must make the standardized complaint form developed under subsection (f)(8) available upon request to—

"(i) a resident of a skilled nursing facility; and

"(ii) any person acting on the resident's behalf.

"(B) COMPLAINT RESOLUTION PROCESS.—The State must establish a complaint resolution process in order to ensure that the legal representative of a resident of a skilled nursing facility or other responsible party is not denied access to such resident or otherwise retaliated against if they have complained about the quality of care provided by the facility or other issues relating to the facility. Such complaint resolution process shall include—

"(i) procedures to assure accurate tracking of complaints received, including

notification to the complainant that a complaint has been received;

"(ii) procedures to determine the likely severity of a complaint and for the investigation of the complaint; and

"(iii) deadlines for responding to a complaint and for notifying the complainant of the outcome of the investigation.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a resident of a skilled nursing facility (or a person acting on the resident's behalf) from submitting a complaint in a manner or format other than by using the standardized complaint form developed under subsection (f)(8) (including submitting a complaint orally).".

(b) NURSING FACILITIES.—

(1) DEVELOPMENT BY THE SECRETARY.—Section 1919(f) of the Social Security Act (42 U.S.C. 1395i–3(f)) is amended by adding at the end the following new paragraph:

"(10) STANDARDIZED COMPLAINT FORM.—The Secretary shall develop a standardized complaint form for use by a resident (or a person acting on the

resident's behalf) in filing a complaint with a State survey and certification agency and a State long-term care ombudsman program with respect to a nursing facility.".

(2) STATE REQUIREMENTS.—Section 1919(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following new paragraph:

"(8) COMPLAINT FORMS AND RESOLUTION PROCESSES.—

"(A) COMPLAINT FORMS.—The State must make the standardized complaint form developed under subsection (f)(10) available upon request to—

"(i) a resident of a nursing facility; and

"(ii) any person acting on the resident's behalf.

"(B) COMPLAINT RESOLUTION PROCESS.—The State must establish a complaint resolution process in order to ensure that the legal representative of a resident of a nursing facility or other responsible party is not denied access to such resident or otherwise retaliated against if they have complained about the quality of care

provided by the facility or other issues relating to the facility. Such complaint resolution process shall include—

"(i) procedures to assure accurate tracking of complaints received, including notification to the complainant that a complaint has been received;

"(ii) procedures to determine the likely severity of a complaint and for the investigation of the complaint; and

"(iii) deadlines for responding to a complaint and for notifying the complainant of the outcome of the investigation.

"(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a resident of a nursing facility (or a person acting on the resident's behalf) from submitting a complaint in a manner or format other than by using the standardized complaint form developed under subsection (f)(10) (including submitting a complaint orally).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 106. ENSURING STAFFING ACCOUNTABILITY.

(a) SKILLED NURSING FACILITIES.—Section 1819(b)(8) of the Social Security Act (42 U.S.C. 1395i–3(b)(8)) is amended by adding at the end the following new subparagraph:

"(C) SUBMISSION OF STAFFING INFORMATION BASED ON PAYROLL DATA IN A UNIFORM FORMAT.—

"(i) DESIGN PHASE.—

"(I) IN GENERAL.—The Secretary shall establish a program for skilled nursing facilities to report staffing information (including information with respect to agency and contract staff) based on payroll data. Such program shall be conducted for a 1-year period beginning on the date of enactment of this subparagraph.

"(II) REPORT.—Not later than 6 months after the completion of the program established under subclause (I), the Secretary shall submit a report to Congress containing the results of the program.

"(ii) SUBMISSION OF STAFFING INFORMATION.—Beginning not later than 1

year after the completion of the program established under clause (i)(I), the Secretary shall require a skilled nursing facility to electronically submit to the Secretary nurse staffing information (including information with respect to agency and contract staff) based on payroll data in a uniform format (according to specifications established by the Secretary). Such specifications shall require that the information submitted under the preceding sentence—

"(I) specify the category of work a certified employee performs (such as whether the employee is a registered nurse, licensed practical nurse, licensed vocational nurse, or certified nursing assistant);

"(II) include resident census data;

"(III) include a regular reporting schedule; and

"(IV) include information on employee turnover and tenure and on the hours of care provided by each cat-

egory of certified employees referenced in subclause (I) per resident per day."

(b) NURSING FACILITIES.—Section 1919(b)(8) of the Social Security Act (42 U.S.C. 1396r(b)(8)) is amended by adding at the end the following new subparagraph:

"(C) SUBMISSION OF STAFFING INFORMATION BASED ON PAYROLL DATA IN A UNIFORM FORMAT.—

"(i) DESIGN PHASE.—

"(I) IN GENERAL.—The Secretary shall establish a program for nursing facilities to report staffing information (including information with respect to agency and contract staff) based on payroll data. Such program shall be conducted for a 1-year period beginning on the date of enactment of this subparagraph.

"(II) REPORT.—Not later than 6 months after the completion of the program established under subclause (I), the Secretary shall submit a report to Congress containing the results of the program.

"(ii) SUBMISSION OF STAFFING INFORMATION.—Beginning not later than 1 year after the completion of the program established under clause (i)(I), the Secretary shall require a nursing facility to electronically submit to the Secretary nurse staffing information (including information with respect to agency and contract staff) based on payroll data in a uniform format (according to specifications established by the Secretary). Such specifications shall require that the information submitted under the preceding sentence—

"(I) specify the category of work a certified employee performs (such as whether the employee is a registered nurse, licensed practical nurse, licensed vocational nurse, or certified nursing assistant);

"(II) include resident census data;

"(III) include a regular reporting schedule; and

"(IV) include information on employee turnover and tenure and on the

hours of care provided by each category of certified employees referenced in subclause (I) per resident per day."

TITLE II—TARGETING ENFORCEMENT

SEC. 201. CIVIL MONEY PENALTIES.

(a) SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1819(h)(2)(B)(ii) of the Social Security Act (42 U.S.C. 1395i–3(h)(2)(B)(ii)) is amended to read as follows:

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—

"(I) AMOUNT.—Subject to subclause (III), the Secretary may impose a civil money penalty in the applicable amount (as defined in subclause (II)) for each day or each instance of noncompliance (as determined appropriate by the Secretary).

"(II) APPLICABLE AMOUNT.—In this clause, the term 'applicable amount' means—

"(aa) in the case where the deficiency results in the death of

a resident of the facility, an amount not to exceed $100,000;

"(bb) in the case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than $3,000 and not more than $25,000; and

"(cc) in the case of any other deficiency, an amount not to exceed $3,000.

"(III) REDUCTION OF CIVIL MONEY PENALTIES IN CERTAIN CIRCUMSTANCES.—Subject to subclause (IV), in the case where a facility self-reports and promptly corrects a deficiency for which a penalty was imposed under this clause not later than 10 calendar days after the date of such imposition, the Secretary may reduce the amount of the penalty imposed by not more than 50 percent.

"(IV) PROHIBITIONS ON REDUCTION FOR CERTAIN DEFICIENCIES.—

"(aa) REPEAT DEFICIENCIES.—The Secretary may not reduce the amount of a penalty under subclause (III) if the Secretary had reduced a penalty imposed on the facility in the preceding year under such subclause with respect to a repeat deficiency.

"(bb) CERTAIN OTHER DEFICIENCIES.—The Secretary may not reduce the amount of a penalty under subclause (III) if the penalty is imposed for a deficiency described in subclause (II)(bb) and the actual harm is found to result in a pattern of harm or widespread harm that immediately jeopardizes the health or safety of a resident or residents of the facility, or if the penalty is imposed for a deficiency described in subclause (II)(aa).

"(V) COLLECTION OF CIVIL MONEY PENALTIES.—In the case of a civil money penalty imposed under this clause for a deficiency described in item (aa) or (bb) of subclause (II), the Secretary—

"(aa) subject to item (bb), shall provide the opportunity for the facility to participate in an informal dispute resolution process prior to the collection of such penalty;

"(bb) may provide for the collection of such civil money penalty and the placement of such amounts collected in an escrow account on the earlier of the date on which the informal dispute resolution process under item (aa) is completed or the date that is 90 days after the date of the imposition of the penalty;

"(cc) may provide that such amounts collected are kept in

such account pending the resolution of any appeals;

"(dd) in the case where the facility successfully appeals the penalty, may provide for the return of such amounts collected (plus interest) to the facility; and

"(ee) in the case where all such appeals are unsuccessful, may provide that some portion of such amounts collected may be used to support activities that benefit residents, including assistance to support and protect residents who reside in a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility), and projects that support resident and family councils and other consumer involvement in assuring quality care in facilities.

"(VI) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and except to the extent that such provisions require a hearing prior to the imposition of a civil money penalty in the case described in subclause (V)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(2) CONFORMING AMENDMENT.—The second sentence of section 1819(h)(5) of the Social Security Act (42 U.S.C. 1395i–3(h)(5)) is amended by inserting "(ii)(V)," after "(i),".

(b) NURSING FACILITIES.—

(1) PENALTIES IMPOSED BY THE STATE.—

(A) IN GENERAL.—Section 1919(h)(2) of the Social Security Act (42 U.S.C. 1396r(h)(2)) is amended—

(i) in subparagraph (A)(ii), by striking the first sentence and inserting the following: "A civil money penalty in accordance with subparagraph (G)."; and

(ii) by adding at the end the following new subparagraph:

"(G) CIVIL MONEY PENALTIES.—

"(i) IN GENERAL.—Subject to clause (iii), the State may impose a civil money penalty under subparagraph (A)(ii) in the applicable amount for each day or each instance of noncompliance (as determined appropriate by the State).

"(ii) DEFINITION OF APPLICABLE AMOUNT.—In this subparagraph, the term 'applicable amount' means—

"(I) in the case where the deficiency results in the death of a resident of the facility, an amount not to exceed $100,000;

"(II) in the case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than $3,000 and not more than $25,000; and

"(III) in the case of any other deficiency, an amount not to exceed $3,000.

"(iii) REDUCTION OF CIVIL MONEY PENALTIES IN CERTAIN CIRCUMSTANCES.—Subject to clause (iv), in the case where a facility self-reports and promptly corrects a deficiency for which a penalty was imposed under subparagraph (A)(ii) not later than 10 calendar days after the date of such imposition, the State may reduce the amount of the penalty imposed by not more than 50 percent.

"(iv) PROHIBITION ON REDUCTION FOR CERTAIN DEFICIENCIES.—

"(I) REPEAT DEFICIENCIES.—The State may not reduce the amount of a penalty under clause (iii) if the State had reduced a penalty imposed on the facility in the preceding year under such clause with respect to a repeat deficiency.

"(II) CERTAIN OTHER DEFICIENCIES.—The State may not reduce the amount of a penalty under clause (iii) if the penalty is imposed for a deficiency described in clause (ii)(II) and the actual harm is found to result

in a pattern of harm or widespread harm that immediately jeopardizes the health or safety of a resident or residents of the facility, or if the penalty is imposed for a deficiency described in clause (ii)(I).

"(v) COLLECTION OF CIVIL MONEY PENALTIES.—In the case of a civil money penalty imposed under subparagraph (A)(ii) for a deficiency described in subclause (I) or (II) of clause (ii), the State—

"(I) subject to subclause (II), shall provide the opportunity for the facility to participate in an informal dispute resolution process prior to the collection of such penalty;

"(II) may provide for the collection of such civil money penalty and the placement of such amounts collected in an escrow account on the earlier of the date on which the informal dispute resolution process under subclause (I) is completed or the date that is 90 days after the date of the imposition of the penalty;

"(III) may provide that such amounts collected are kept in such account pending the resolution of any appeals;

"(IV) in the case where the facility successfully appeals the penalty, may provide for the return of such amounts collected (plus interest) to the facility; and

"(V) in the case where all such appeals are unsuccessful, may provide that such funds collected shall be used for the purposes described in the second sentence of subparagraph (A)(ii).".

(B) CONFORMING AMENDMENT.—The second sentence of section 1919(h)(2)(A)(ii) is amended by inserting ", and some portion of such funds may be used to support activities that benefit residents, including assistance to support and protect residents who reside in a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility), and projects

that support resident and family councils and other consumer involvement in assuring quality care in facilities" before the period at the end.

(2) PENALTIES IMPOSED BY THE SECRETARY.—

(A) IN GENERAL.—Section 1919(h)(3)(C)(ii) of the Social Security Act (42 U.S.C. 1396r(h)(3)(C)) is amended to read as follows:

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—

"(I) AMOUNT.—Subject to subclause (III), the Secretary may impose a civil money penalty in the applicable amount (as defined in subclause (II)) for each day or each instance of noncompliance (as determined appropriate by the Secretary).

"(II) APPLICABLE AMOUNT.—In this clause, the term 'applicable amount' means—

"(aa) in the case where the deficiency results in the death of a resident of the facility, an amount not to exceed $100,000;

"(bb) in the case of a deficiency where the facility is cited for actual harm or immediate jeopardy, an amount not less than $3,000 and not more than $25,000; and

"(cc) in the case of any other deficiency, an amount not to exceed $3,000.

"(III) REDUCTION OF CIVIL MONEY PENALTIES IN CERTAIN CIRCUMSTANCES.—Subject to subclause (IV), in the case where a facility self-reports and promptly corrects a deficiency for which a penalty was imposed under this clause not later than 10 calendar days after the date of such imposition, the Secretary may reduce the amount of the penalty imposed by not more than 50 percent.

"(IV) PROHIBITIONS ON REDUCTION FOR CERTAIN DEFICIENCIES.—

"(aa) REPEAT DEFICIENCIES.—The Secretary may not reduce the amount of a pen-

alty under subclause (III) if the Secretary had reduced a penalty imposed on the facility in the preceding year under such subclause with respect to a repeat deficiency.

"(bb) CERTAIN OTHER DEFICIENCIES.—The Secretary may not reduce the amount of a penalty under subclause (III) if the penalty is imposed for a deficiency described in subclause (II)(bb) and the actual harm is found to result in a pattern of harm or widespread harm that immediately jeopardizes the health or safety of a resident or residents of the facility, or if the penalty is imposed for a deficiency described in subclause (II)(aa).

"(V) COLLECTION OF CIVIL MONEY PENALTIES.—In the case of a civil money penalty imposed under this clause for a deficiency described

in item (aa) or (bb) of subclause (II), the Secretary—

"(aa) subject to item (bb), shall provide the opportunity for the facility to participate in an informal dispute resolution process prior to the collection of such penalty;

"(bb) may provide for the collection of such civil money penalty and the placement of such amounts collected in an escrow account on the earlier of the date on which the informal dispute resolution process under item (aa) is completed or the date that is 90 days after the date of the imposition of the penalty;

"(cc) may provide that such amounts collected are kept in such account pending the resolution of any appeals;

"(dd) in the case where the facility successfully appeals the

penalty, may provide for the return of such amounts collected (plus interest) to the facility; and

"(ee) in the case where all such appeals are unsuccessful, may provide that some portion of such amounts collected may be used to support activities that benefit residents, including assistance to support and protect residents who reside in a facility that closes (voluntarily or involuntarily) or is decertified (including offsetting costs of relocating residents to home and community-based settings or another facility), and projects that support resident and family councils and other consumer involvement in assuring quality care in facilities.

"(VI) PROCEDURE.—The provisions of section 1128A (other than subsections (a) and (b) and except to the extent that such provisions require a hearing prior to the imposition of a

civil money penalty in the case described in subclause (V)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) CONFORMING AMENDMENT.—Section 1919(h)(5)(8) of the Social Security Act (42 U.S.C. 1396r(h)(5)(8)) is amended by inserting "(ii)(V)," after "(i),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 202. GAO STUDY AND REPORT ON THE RELATIVE FINANCIAL STATUS AND PERFORMANCE OF SPECIAL FOCUS FACILITIES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the financial status, resident care, and performance of skilled nursing facilities and nursing facilities in the Special Focus Facility program (or a successor program) established by the Centers for Medicare & Medicaid Services relative to a comparable sample of facilities that are not in such program. Such study

shall include an examination of the ownership and control interests, and any affiliated parties, of the facilities studied (as applicable).

(2) DEFINITIONS.—In this section:

(A) NURSING FACILITY.—The term "nursing facility" has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(B) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(C) SKILLED NURSING FACILITY.—The term "skilled nursing facility" has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395(a)).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress and the Secretary containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 203. NATIONAL INDEPENDENT MONITOR PROGRAM.

(a) SKILLED NURSING FACILITIES.—Section 1819(h) of the Social Security Act (42 U.S.C. 1395i–3(h)(2) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) NATIONAL INDEPENDENT MONITOR PROGRAM.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall develop, test, and implement a protocol for the establishment of an independent monitoring program to oversee interstate and large intrastate chains of skilled nursing facilities. Such program shall be designed to analyze such chains in 1 or more of the following instances:

"(i) Where 3 or more facilities of the chain were enrolled in the 'Special Focus Facility program' (or a successor program) established by the Centers for Medicare &

Medicaid Services during the preceding 3 years.

"(ii) Where the chain has been experiencing financial problems that may be linked to serious quality deficiencies.

"(iii) Where the chain has a record of chronic poor performance.

"(B) RESPONSIBILITIES.—The independent monitoring program established under subparagraph (A) shall include the following responsibilities:

"(i) Conducting periodic reviews and preparing root-cause quality and deficiency analyses of a chain described in such subparagraph to assess compliance by the chain with State and Federal laws and regulations.

"(ii) Conducting oversight of efforts by such a chain, whether publicly or privately held, to achieve compliance with State and Federal laws and regulations.

"(iii) Analyzing the management structure, distribution of expenditures, and nurse staffing levels of facilities of such a

chain in relation to resident census, staff turnover rates, and tenure.

"(iv) Reporting findings and recommendations with respect to such reviews, analyses, and oversight to the chain and facilities of the chain, to the Secretary, and to relevant States.

"(v) Publishing the results of such reviews, analyses, and oversight.

"(C) IMPLEMENTATION OF RECOMMENDATIONS.—

"(i) RECEIPT OF FINDING BY CHAIN.—Not later than 10 days after receipt of a finding reported under subparagraph (B)(iv), the chain shall submit a report to the independent monitor—

"(I) outlining corrective actions to be taken by the chain to implement the recommendations in such report; or

"(II) indicating that the chain will not implement such recommendations, and why it will not do so.

"(ii) RECEIPT OF REPORT BY INDEPENDENT MONITOR.—Not later than 10

days after receipt of the report submitted by the chain under clause (i), the independent monitor shall finalize its recommendations and submit a report to the chain and facilities of the chain, the Secretary, and the State or States, as appropriate, containing such final recommendations.

"(iii) CIVIL MONEY PENALTY.—The Secretary may impose a civil money penalty under subsection (h)(2)(B)(ii) on a chain that fails to respond to or to take corrective actions to implement the recommendations of the independent monitor in accordance with this subparagraph.

"(D) COST OF APPOINTMENT.—A chain shall be responsible for all costs associated with the appointment of independent monitors under the program under this paragraph. The chain shall pay such costs to the Secretary (in accordance with procedures established by the Secretary).

"(E) EVALUATION AND REPORT.—

"(i) EVALUATION.—The Inspector General of the Department of Health and

Human Services shall evaluate the independent monitoring program under this paragraph.

"(ii) REPORT.—Not later than 2 years after the implementation of such program under subparagraph (A), the Inspector General shall submit a report to Congress containing the results of the evaluation conducted under clause (i), together with recommendations for such legislation and administrative action as the Inspector General determines appropriate.

"(F) INTERMEDIATE REMEDY.—The appointment of an independent monitor shall be an intermediate remedy that may be in addition to or in lieu of other remedies under this subsection.".

(b) NURSING FACILITIES.—Section 1919(h) of the Social Security Act (42 U.S.C. 1396r(h)) is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) NATIONAL INDEPENDENT MONITOR PROGRAM.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall develop, test, and implement a protocol for the establishment of an independent monitoring program to oversee interstate and large intrastate chains of nursing facilities. Such program shall be designed to analyze such chains in 1 or more of the following instances:

"(i) Where 3 or more facilities of the chain were enrolled in the 'Special Focus Facility program' (or a successor program) established by the Centers for Medicare & Medicaid Services during the preceding 3 years.

"(ii) Where the chain has been experiencing financial problems that may be linked to serious quality deficiencies.

"(iii) Where the chain has a record of chronic poor performance.

"(B) RESPONSIBILITIES.—The independent monitoring program established under

subparagraph (A) shall include the following responsibilities:

"(i) Conducting periodic reviews and preparing root-cause quality and deficiency analyses of a chain described in such subparagraph to assess compliance by the chain with State and Federal laws and regulations.

"(ii) Conducting oversight of efforts by such a chain, whether publicly or privately held, to achieve compliance with State and Federal laws and regulations.

"(iii) Analyzing the management structure, distribution of expenditures, and nurse staffing levels of facilities of such a chain in relation to resident census, staff turnover rates, and tenure.

"(iv) Reporting findings and recommendations with respect to such reviews, analyses, and oversight to the chain and facilities of the chain, to the Secretary, and to relevant States.

"(v) Publishing the results of such reviews, analyses, and oversight.

"(C) IMPLEMENTATION OF RECOMMENDATIONS.—

"(i) RECEIPT OF FINDING BY CHAIN.—Not later than 10 days after receipt of a finding reported under subparagraph (B)(iv), the chain shall submit a report to the independent monitor—

"(I) outlining corrective actions to be taken by the chain to implement the recommendations in such report; or

"(II) indicating that the chain will not implement such recommendations, and why it will not do so.

"(ii) RECEIPT OF REPORT BY INDEPENDENT MONITOR.—Not later than 10 days after receipt of the report submitted by the chain under clause (i), the independent monitor shall finalize its recommendations and submit a report to the chain and facilities of the chain, the Secretary, and the State or States, as appropriate, containing such final recommendations.

"(iii) CIVIL MONEY PENALTY.—A State or the Secretary may impose a civil money penalty under subsection (h)(2)(A)(ii), or (h)(3)(C)(ii), respectively, on a chain that fails to respond to or to take corrective actions to implement the recommendations of the independent monitor in accordance with this subparagraph.

"(D) COST OF APPOINTMENT.—A chain shall be responsible for all costs associated with the appointment of independent monitors under the program under this paragraph. The chain shall pay such costs to the Secretary (in accordance with procedures established by the Secretary).

"(E) EVALUATION AND REPORT.—

"(i) EVALUATION.—The Inspector General of the Department of Health and Human Services shall evaluate the independent monitoring program under this paragraph.

"(ii) REPORT.—Not later than 2 years after the implementation of such program under subparagraph (A), the Inspector General shall submit a report to Con-

gress containing the results of the evaluation conducted under clause (i), together with recommendations for such legislation and administrative action as the Inspector General determines appropriate.

"(F) INTERMEDIATE REMEDY.—The appointment of an independent monitor shall be an intermediate remedy that may be in addition to or in lieu of other remedies under this subsection.".

SEC. 204. GAO STUDIES AND REPORTS ON TEMPORARY MANAGEMENT AND BARRIERS TO PURCHASING FACILITIES WITH A RECORD OF POOR CARE.

(a) STUDY AND REPORT ON TEMPORARY MANAGEMENT.—

(1) IN GENERAL.—The Comptroller General of the United States (in this section referred to as the "Comptroller General") shall conduct a study on—

(A) best practices for the appointment of temporary management under sections 1819(h)(2)(B)(iii), 1919(h)(2)(A)(iii), and 1919(h)(3)(C)(iii) of the Social Security Act (42 U.S.C. 1395i–3(h)(2)(B)(iii); 1396r(h)(2)(A)(iii); 1396r(h)(3)(C)(iii)); and

(B) barriers to the appointment of such temporary management.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to Congress containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

(3) GUIDANCE TO STATES.—The Secretary of Health and Human Services shall issue guidance to States based on the recommendations contained in the report submitted under paragraph (2).

(b) STUDY AND REPORT ON BARRIERS TO PURCHASING FACILITIES WITH A RECORD OF POOR CARE.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the extent and the nature of any barriers for new owners who purchase, and potential owners who wish to purchase, skilled nursing facilities and nursing facilities with a record of poor care.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to Congress containing the results of the study conducted under paragraph (1),

together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate to address any barriers identified in such study.

(3) DEFINITIONS.—In this subsection:

(A) NURSING FACILITY.—The term "nursing facility" has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(B) SKILLED NURSING FACILITY.—The term "skilled nursing facility" has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395(a)).

SEC. 205. NOTIFICATION OF FACILITY CLOSURE.

(a) SKILLED NURSING FACILITIES.—

(1) IN GENERAL.—Section 1819(c) of the Social Security Act (42 U.S.C. 1395i–3(c)) is amended by adding at the end the following new paragraph:

"(7) NOTIFICATION OF FACILITY CLOSURE.—

"(A) IN GENERAL.—Any individual who is the administrator of a skilled nursing facility must—

"(i) submit to the Secretary, the State long-term care ombudsman, residents of the facility, and the legal representatives of

such residents or other responsible parties, written notification of an impending closure—

"(I) subject to subclause (II), not later than the date that is 60 days prior to the date of such closure; and

"(II) in the case of a facility where the Secretary terminates the facility's participation under this title, not later than the date that the Secretary determines appropriate;

"(ii) ensure that the facility does not admit any new residents on or after the date on which such written notification is submitted; and

"(iii) include in the notice a plan for the transfer and adequate relocation of the residents of the facility by a specified date prior to closure that has been approved by the State, including assurances that the residents will be transferred to the most appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs and best interests of each resident.

"(B) RELOCATION.—

"(i) IN GENERAL.—The State shall ensure that, before a facility closes, all residents of the facility have been successfully relocated to another facility or an alternative home and community-based setting.

"(ii) CONTINUATION OF PAYMENTS UNTIL RESIDENTS RELOCATED.—The Secretary may, as the Secretary determines appropriate, continue to make payments under this title with respect to residents of a facility that has submitted a notification under subparagraph (A) during the period beginning on the date such notification is submitted and ending on the date on which the resident is successfully relocated.".

(2) CONFORMING AMENDMENTS.—Section 1819(h)(4) of the Social Security Act (42 U.S.C. 1395i–3(h)(4)) is amended—

(A) in the first sentence, by striking "the Secretary shall terminate" and inserting "the Secretary, subject to subsection (c)(7), shall terminate"; and

(B) in the second sentence, by striking "subsection (c)(2)" and inserting "paragraphs (2) and (7) of subsection (c)".

(b) NURSING FACILITIES.—

(1) IN GENERAL.—Section 1919(c) of the Social Security Act (42 U.S.C. 1396r(c)) is amended by adding at the end the following new paragraph:

"(9) NOTIFICATION OF FACILITY CLOSURE.—

"(A) IN GENERAL.—Any individual who is an administrator of a nursing facility must—

"(i) submit to the Secretary, the State long-term care ombudsman, residents of the facility, and the legal representatives of such residents or other responsible parties, written notification of an impending closure—

"(I) subject to subclause (II), not later than the date that is 60 days prior to the date of such closure; and

"(II) in the case of a facility where the Secretary terminates the facility's participation under this title, not later than the date that the Secretary determines appropriate;

"(ii) ensure that the facility does not admit any new residents on or after the date on which such written notification is submitted; and

"(iii) include in the notice a plan for the transfer and adequate relocation of the residents of the facility by a specified date prior to closure that has been approved by the State, including assurances that the residents will be transferred to the most appropriate facility or other setting in terms of quality, services, and location, taking into consideration the needs and best interests of each resident.

"(B) RELOCATION.—

"(i) IN GENERAL.—The State shall ensure that, before a facility closes, all residents of the facility have been successfully relocated to another facility or an alternative home and community-based setting.

"(ii) CONTINUATION OF PAYMENTS UNTIL RESIDENTS RELOCATED.—The Secretary may, as the Secretary determines appropriate, continue to make payments

under this title with respect to residents of a facility that has submitted a notification under subparagraph (A) during the period beginning on the date such notification is submitted and ending on the date on which the resident is successfully relocated.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 206. NATIONAL DEMONSTRATION PROJECTS ON CULTURE CHANGE AND USE OF INFORMATION TECHNOLOGY IN NURSING HOMES.

(a) IN GENERAL.—The Secretary shall conduct 2 demonstration projects, 1 for the development of best practices in skilled nursing facilities and nursing facilities that are involved in the culture change movement (including the development of resources for facilities to find and access funding in order to undertake culture change) and 1 for the development of best practices in skilled nursing facilities and nursing facilities for the use of information technology to improve resident care.

(b) CONDUCT OF DEMONSTRATION PROJECTS.—

(1) GRANT AWARD.—Under each demonstration project conducted under this section, the Secretary shall award 1 or more grants to facility-based set-

tings for the development of best practices described in subsection (a) with respect to the demonstration project involved. Such award shall be made on a competitive basis and may be allocated in 1 lump-sum payment.

(2) CONSIDERATION OF SPECIAL NEEDS OF RESIDENTS.—Each demonstration project conducted under this section shall take into consideration the special needs of residents of skilled nursing facilities and nursing facilities who have cognitive impairment, including dementia.

(c) IMPLEMENTATION AND DURATION.—

(1) IMPLEMENTATION.—The demonstration projects shall each be implemented not later than 1 year after the date of enactment of this Act.

(2) IN GENERAL.—The demonstration projects shall each be conducted for a period not to exceed 3 years.

(d) DEFINITIONS.—In this section:

(1) NURSING FACILITY.—The term "nursing facility" has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) SKILLED NURSING FACILITY.—The term "skilled nursing facility" has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395(a)).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(f) REPORT.—Not later than 9 months after the completion of the demonstration project, the Secretary shall submit a report to Congress on such project, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

TITLE III—IMPROVING STAFF TRAINING

SEC. 301. DEMENTIA AND ABUSE PREVENTION TRAINING.

(a) SKILLED NURSING FACILITIES.—Section 1819(f)(2)(A)(i)(I) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)(A)(i)(I)) is amended by inserting "(including, in the case of initial training and, if the Secretary determines appropriate, in the case of ongoing training, dementia management training, and patient abuse prevention training" before ", (II)".

(b) NURSING FACILITIES.—Section 1919(f)(2)(A)(i)(I) of the Social Security Act (42 U.S.C. 1396r(f)(2)(A)(i)(I)) is amended by inserting "(including,

in the case of initial training and, if the Secretary determines appropriate, in the case of ongoing training, dementia management training, and patient abuse prevention" before ", (II)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 302. STUDY AND REPORT ON TRAINING REQUIRED FOR CERTIFIED NURSE AIDES AND SUPERVISORY STAFF.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study on the content of training for certified nurse aides and supervisory staff of skilled nursing facilities and nursing facilities. The study shall include an analysis of the following:

(A) Whether the number of initial training hours for certified nurse aides required under sections 1819(f)(2)(A)(i)(II) and 1919(f)(2)(A)(i)(II) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)(A)(i)(II); 1396r(f)(2)(A)(i)(II)) should be increased from 75 and, if so, what the required number of initial training hours should be, including any rec-

ommendations for the content of such training (including training related to dementia).

(B) Whether requirements for ongoing training under such sections 1819(f)(2)(A)(i)(II) and 1919(f)(2)(A)(i)(II) should be increased from 12 hours per year, including any recommendations for the content of such training.

(2) CONSULTATION.—In conducting the analysis under paragraph (1)(A), the Secretary shall consult with States that currently (as of the date of enactment of this Act) require more than 75 hours of training for certified nurse aides.

(3) DEFINITIONS.—In this section:

(A) NURSING FACILITY.—The term "nursing facility" has the meaning given such term in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a)).

(B) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services, acting through the Assistant Secretary for Planning and Evaluation.

(C) SKILLED NURSING FACILITY.—The term "skilled nursing facility" has the meaning

given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395(a)).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to Congress containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

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